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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,990	04/20/2005	Kenji Suzuki	270573US0PCT	6522

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
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ALEXANDRIA, VA 22314

EXAMINER

BERMAN, SUSAN W

ART UNIT	PAPER NUMBER
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1796

NOTIFICATION DATE	DELIVERY MODE
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09/10/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/531,990	Applicant(s) SUZUKI ET AL.	
	Examiner /Susan W. Berman/	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01-09-2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u>attached</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

Response to Telephone Interview

The Office Action mailed 04-17-2008 is withdrawn. The time period for response is restarted to begin with the mailing date of this Office Action. The citation of WO 01/908818 in the previous Office Action has been corrected to read WO 01/90818. The references I now cited on form 892 and copies of the foreign references cited on form 892 are attached hereto.

Response to Amendment/Arguments

Applicant's arguments filed 01-09-2008 have been fully considered and found persuasive.

The Declaration under 37 CFR § 1.132 of Kenji Suzuki has been considered. It is agreed that the comparative experiment shows significant differences in the properties of the resultant sheets when the block copolymer is electron beam crosslinked after combination with the polyolefin resin compared with having been electron beam crosslinked before being combined with the polyolefin resin. However, this appears to be only the expected result of crosslinking the block copolymer in the presence of a second crosslinkable material, i.e., the polyolefin resin. However, the evidence is sufficient to remove J '835 as an anticipatory reference with respect to the new claims because the claims are now drawn to the molded article obtained by exposing the composition to active energy ray to crosslink the composition. The comparative data shows that the product obtained by J '835 has significantly different properties from the product obtained in the instantly claimed invention. The rejections of record over J '835 are hereby withdrawn.

The rejections of claims of record over JP Publication No. 11-130921 are hereby withdrawn in response to applicant's argument that J '921 does not teach crosslinked products.

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The instant claims are now limited to molded articles and laminates comprising radiation crosslinked products of the composition set forth.

New grounds of rejection are set forth below based on newly discovered prior art.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. (1) It is not clear from the phrase “polyolefin-based” resin composition whether applicant intends to claim a polyolefin resin or some other resin based on a polyolefin as component (II). The phrase “addition polymerization-based” block copolymer (I) as component (I) of the composition is clarified by the description in lines 5-13 of claim 1. It is suggested that applicant delete the term “based” from the claim language in order to clearly set forth that copolymer (I) is an addition polymerized block copolymer and that polyolefin (II) is a polyolefin.

With respect to claims 15-22, it is not clear what is meant by “a layer formed of the molded article”. How can a molded article form a layer? Is the “layer” continuous or discontinuous? Is the molded article cut or shaped to form a layer? The claims should clearly recite how a “layer” is obtained from the “molded article”. What is disclosed in the instant specification is that the “so-obtained polyolefin-based composition” is formed into a layer, which

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layer is laminated with a layer of another resin to form a flexible laminate (see page 22, line 23, to page 23, line 14).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 01/90818 A1 in view of EP 0 013 139 A1.

WO '818 discloses sheets for flexographic printing plates prepared from compositions of 10-37% by weight of a block copolymer (a) of polystyrene and/or polyalkylstyrene blocks with poly(conjugated diene) blocks and more than 50% by weight of a component (b) plasticizer for preparing flexographic printing plate precursors for flexographic printing plates. Component (b) plasticizer is an oil or liquid polyolefin, preferably polyisoprene (page 7, lines 3-30). Component (c) is an ethylenically unsaturated monomer. Component (d) is a photoinitiator and crosslinking is by exposure to actinic radiation. WO '818 teaches that a FPP precursor comprises an uncured layer prepared from a photocurable polymer composition which is then selectively cured by image-wise exposure to light. WO '818 does not mention molding to obtain the layer or laminating to obtain the printing plate.

EP '139 discloses blends of poly(p-methylstyrene) with polyolefins that can be formed into shaped articles which can be crosslinked by irradiation (Abstract). The polymers can be copolymers of p-methylstyrene with 10 to 1 weight percent conjugated diene. The difference from the instantly claimed molded articles is that EP '139 does not teach using block copolymers of p-methylstyrene. EP '139 teaches that poly(alkylstyrene) can be crosslinked by irradiation, while polystyrene is not crosslinked by irradiation.

It would have been obvious to one skilled in the art at the time of the invention to employ alkyl styrene, such as p-methylstyrene, in the block copolymers disclosed by WO '818 in order to provide crosslinking of the alkylstyrene blocks, as taught by EP '139 in analogous art. WO '818 provides motivation by teaching that the disclosed block copolymers can be obtained from alkylstyrene monomers. EP '139 provides motivation by teaching that alkylstyrenes, such as p-methylstyrene, provide block copolymers wherein the styrene block is crosslinkable when irradiated. It would further have been obvious to one skilled in the art at the time of the invention to employ the layer taught by WO '818 to provide a flexographic printing plate by lamination because WO '818 teach that the disclosed compositions are employed to provide flexographic printing plates.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re*

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Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 7-22 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 3-5 of copending Application No. 10/532244 in view of WO 01/908818. Although the conflicting claims are not identical, they are not patentably distinct from each other because the comprising language of the claims of '244 encompasses addition of a softener, as set forth in claim 3. WO 01/908818 discloses compositions of block copolymers (a) of alkylstyrene blocks with conjugated diene blocks for preparing flexographic printing plates. Component (b) plasticizer is an oil or liquid polyolefin, such as polyisoprene (page 7, lines 3-17). Component (c) is an ethylenically unsaturated monomer. Component (d) is a photoinitiator and crosslinking is by exposure to actinic radiation. It would have been obvious to one skilled in the art at the time of the invention to employ the liquid polyolefin plasticizer taught by WO '818 as softener in the composition set forth in the claims of Application '244. One skilled in the art at the time of the invention would have been motivated by a reasonable expectation of providing a useful flexographic plate material.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Susan W. Berman/ whose telephone number is 571 272 1067.

The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571 272 1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SB
4/9/2008

/Susan W Berman/
Primary Examiner
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